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6 Attorneys for Defendant Euler Hermes American Credit Indemnity  
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10 **IN THE UNITED STATES DISTRICT COURT**  
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
12

13 ELITEGROUP COMPUTER SYSTEMS,  
INC., a California corporation,  
14

15 vs. Plaintiff,  
16

17 EULER HERMES AMERICAN CREDIT  
INDEMNITY COMPANY, a Maryland  
corporation, and Does 1 through 20,  
inclusive,  
18

19 Defendants.  
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Case No. C09 00110 LHK PVT  
The Honorable Lucy Koh

STIPULATION AND [PROPOSED]  
ORDER RE: WITHDRAWAL OF  
PLAINTIFF'S SICSA CLAIM

1 Plaintiff Elitegroup Computer Systems, Inc. ("Elitegroup") and Defendant Euler  
2 Hermes American Credit Indemnity ("Euler") (jointly, the "Parties") make the following  
3 Stipulation, subject to approval of this Court:  
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5 WHEREAS, on January 9, 2009, Elitegroup filed its Complaint against Euler,  
6 which asserted causes of action for breach of contract, breach of the implied covenant of  
7 good faith and fair dealing, and declaratory relief against Euler based on Euler's denial of  
8 five claims submitted by Elitegroup under the Euler insurance policy, effective January 1,  
9 2008 (the "Policy"), for the following buyers: (1) Flex Importacao Exportacao (the  
10 "Flex" claim); (2) Soluciones Integrales Corporation (the "SICSA" claim); (3) Terra  
11 Industria da Amazonia Ltd (the "Terra" claim); (4) RBC Industria de Computadores (the  
12 "RBC" claim); and (5) SR America, LLC (the "SR America" claim).  
13

14 WHEREAS, on November 12, 2010, the Parties entered into a stipulation to  
15 remove from this action without prejudice Elitegroup's Terra claim, RBC claim, and SR  
16 America claim (to the extent the SR America claim concerned goods shipped to locations  
17 outside of the United States) because these claims are the subject on ongoing and  
18 unresolved insolvency proceedings in Brazil and thus are not ripe for adjudication. On  
19 November 12, 2010 the Court ordered these claims withdrawn without prejudice.  
20

21 WHEREAS, it is the Parties' intent in entering into this Stipulation to remove from  
22 this action Elitegroup's SICSA claim because it is the subject of ongoing and unresolved  
23 insolvency proceedings in Argentina and thus is not ripe for adjudication.  
24

25 NOW THEREFORE, the Parties hereby agree and stipulate as follows:

26 1. Elitegroup's SICSA claim (referenced in paragraphs 13 and 14 of the  
27 Complaint) is deemed withdrawn from the Complaint without prejudice.  
28

1           2.     In conjunction with the withdrawal of Elitegroup's SICSA claim, the Parties  
2 agree that commencing as of January 9, 2009 (the date this action was filed) and  
3 extending through to the Termination Date (as defined below), the respective rights,  
4 claims, causes of action, and/or defenses that the Parties have in connection with the  
5 SICSA claim that existed as of January 9, 2009 shall be fully preserved. The Parties  
6 further agree that during the time period from January 9, 2009 to the Termination Date,  
7 the running time under any applicable statute of limitations, or under any theory of  
8 estoppel, waiver, and/or any other time-related defense or right, shall be tolled as to both  
9 Parties (the "Tolling Provision"). The Tolling Provision does not apply to rights, claims,  
10 causes of action, and/or defenses that did not exist as of January 9, 2009.

11           3.     Either Party may terminate the Tolling Provision of this Stipulation and  
12 Order by providing the other Party with written notice of its intent to terminate the  
13 Tolling Provision. If such notice is provided, the Tolling Provision shall terminate 60  
14 days after the service of such notice (the "Termination Date"). Alternatively, the  
15 Termination date shall be triggered upon execution of a settlement agreement by the  
16 Parties that expressly supersedes this Stipulation.

17           4.     The Parties further agree that Elitegroup's withdrawal of the SICSA claim  
18 from the Complaint does not constitute a withdrawal of this claim under section V of the  
19 Policy and shall not otherwise be deemed a failure by Elitegroup to comply with the  
20 Claim Filing requirements set forth in section V(A)(1) of the Policy nor the litigation  
21 commencement requirements of section X(D) as to this claim.

22           5.     This Stipulation and Order shall not be construed as an admission of any  
23 facts or any liability by the Parties.

24           6.     This Court shall retain jurisdiction to enforce the terms of this Stipulation  
25 and Order.  
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1        7. This Stipulation and Order may be executed in counterparts and via  
2 facsimile or email with the same force and effect as if executed in one complete  
3 document.

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5  
6 Dated November 29, 2010

7  
8 By: 

Shawn T. Leuthold

9  
10 Attorneys for Plaintiff  
Elitegroup Computer Systems, Inc.

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12  
13 Dated: November 29, 2010

DEWEY & LEBOEUF LLP

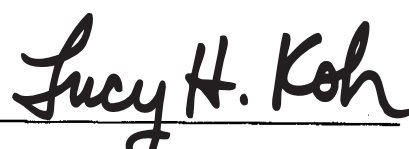
14  
15 By: 

Dean Hansell  
Ian C. Eisner

16  
17 Attorneys for Defendant  
Euler Hermes American Credit Indemnity Company  
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23 IT IS SO ORDERED

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25 Dated: November 30, 2010



Hon. Lucy Koh